

May 4, 1937

Mr. Earl Platt  
County Attorney  
St. Johns, Arizona

Dear Sir:

This will acknowledge receipt of your letter of April 30th, requesting an interpretation of House Bill No. 11, Chapter 46, of the Thirteenth Legislature, regarding interest and penalty exemptions.

This office has had a number of requests for opinions on this act and it is the opinion of the Attorney General that certificate of purchases, as provided in section 3065z 3, is to be interpreted as a sale within the meaning of chapter 46, House Bill 11.

It, therefore, follows that upon redemption by the assessed owner of any such property such owner is not entitled to an exemption of penalties and interest as provided by chapter 46. We have taken the position that it makes no difference whether the county is the purchaser or an individual is the purchaser, and if the property was sold prior to the passage of house bill No. 11, the interest and penalty exemptions as provided in the act do not apply.

In answer to your question as to whether or not the general nepotism law, that is chapter 52 of the 1931 session laws, would be applicable to trustees of a school district, or whether section 1011, subdivision 4 of the 1928 Revised Code is still applicable, it is the opinion of this office that the general nepotism law contained in section 1352b of chapter 52 of the session laws of 1931 is applicable.

The reason for this is that from a careful reading of chapter 52, it is apparent that a trustee cannot vote for anyone related to him by affinity or consanguinity within the third degree. This is directly in conflict with section 1011 of the Revised Code of 1928. In this regard the Supreme Court of Arizona in the case of Olson vs. State, 36 Ariz. 294, used the following language:

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"Where the later of two acts covers the whole subject-matter of the earlier one, not purporting to amend it, and plainly shows that it was intended to be a substitute for the earlier act, such later act will operate as a repeal of the earlier one, though the two are not republant."

Chapter 52 is headed "To Prohibit the Employment of Relatives in Public Offices", and reads in part as follows:

"All officials of the State of Arizona, or of any county or incorporated city within the state, holding office either by election or appointment, and all the heads of the departments of state, county or incorporated cities, public school trustees, officers and boards \* \* \*"

From this it was obviously the intention of the legislature to repeal section 1011 because chapter 52 specifically sets out "public school trustees" and that is what subhead 3 of section 1011 deals with.

It is, therefore, the opinion of the attorney general that section 1011, Revised Code of 1928, is not operative in view of the operation and effect of chapter 52, session laws 1931, commonly known as the Nepotism Law.

Yours very truly,

JOE CONWAY  
Attorney General

J. M. JOHNSON  
Assistant Attorney General

E. G. FRAZIER  
Special Assistant  
Attorney General